

**IN THE UNITED STATES DISTRICT COURT
THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

Commodore Investments, LLC,)	
)	Case No. 3:10-cv-0825
Plaintiff)	
)	Judge Nixon
v.)	Magistrate Judge Bryant
)	
Barry Lehman and Robin Schwartz,)	
)	
Defendants)	

DEFAULT JUDGMENT

Pending is Plaintiff's Renewed Motion for Default Judgment against Defendants (Docket Entry No. 17) pursuant to Federal Rule of Civil Procedure 55(b)(1). The Clerk previously denied default judgment for the reasons stated in Docket Entry No. 16. Default was entered by the Clerk pursuant to Federal Rule of Civil Procedure 55(a) on October 21, 2010 (Docket Entry No. 9).

Plaintiff's Motion is granted. Plaintiff has now provided the Court with a copy of the Note upon which this action is based (Docket Entry No. 18-2). The Clerk observes for the record that the Note appears to contain a typographical error at the heading which describes it as a \$100,000 note. However the paragraph following the heading and the earlier notes upon which the Demand Note is based (provided as Docket Entry No. 18-3) make clear the actual amount is \$1,000,000. The Clerk further observes that the Supplemental Affidavit attached to the Renewed Motion (Docket Entry No. 18-1) states and supports only the \$1,000,000 principal amount of the loan and the interest rate. Federal Rule of Civil Procedure 55(b)(1) requires an Affidavit attesting to the entire amount of the judgment sought. A review of the Docket shows that the Affidavit provided in connection with the earlier motion for default

judgment (Docket Entry No. 14) does attest to the principal and interest sought as of November 1, 2010 as stated in the Renewed Motion. Based upon the amount stated in the previous Affidavit, the Clerk will grant default judgment as requested by Plaintiff in the amount of \$1,189,063.37. Interest shall be allowed at the rate of 10% from November 2, 2010 through the entry of this default judgment. Post judgment interest at the rate stated in 28 USC §1961 is granted as requested by Plaintiff.

If desired, attorney fees and costs should be sought from the court pursuant to Federal Rule of Civil Procedure 54(d)(2). Taxable costs of the case should be sought pursuant to Local Rule 54.01(a).

s/ Keith Throckmorton

Keith Throckmorton
Clerk of Court